

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

WAYNE T. MOULTON,

Plaintiff,

v.

3:22-cv-00340 (AMN/ML)

COUNTY OF TIOGA, NEW YORK; GARY W HOWARD, individually and in his capacity as Sheriff of Tioga County; and SHAWN J. NALEPA, individually and in his capacity as Tioga County Sheriff's Department Captain of Operations,

Defendants.

VERDICT FORM

PLEASE NOTE

- Each Juror will be provided with a Verdict Form. However, your verdict should be reported to the Judge on **ONLY ONE** Verdict Form, **signed by the jury foreperson**. The remaining Verdict Forms should be returned to the courtroom deputy unsigned, following the completion of your deliberation.
- Please indicate your response to the following questions by placing an “X” on the appropriate lines.
- Please carefully follow the bold-type directions accompanying each question.
- Please complete all of Section I. If you answer YES for at least one Defendant to at least one of the questions in Section I, then proceed to complete all of Sections II and III. If you answer NO for all of the Defendants for each question in Section I, you may proceed to the end of this form and your deliberations are complete. The Foreperson should sign and date the final page of this Verdict Form and inform the Court Security Officer that a unanimous verdict has been reached.
- Proceed to SECTION I: Question 1 on the next page.

* * *

SECTION I: Question 1(a)

Section 1983 – First Amendment Retaliation

Do you find that Plaintiff Wayne T. Moulton has proven by a preponderance of the evidence each and every element of his First Amendment retaliation claim under 42 U.S.C. § 1983 against:

Defendant Gary W. Howard?	Yes <input checked="" type="checkbox"/>	No _____
Defendant Shawn J. Nalepa?	Yes <input checked="" type="checkbox"/>	No _____
Defendant Tioga County?	Yes <input checked="" type="checkbox"/>	No _____

Please note: If you answered YES for Defendant Gary W. Howard, you must answer YES for Defendant Tioga County.

Please note: If you find that Defendants have proven by a preponderance of the evidence that they would have taken an adverse action against the Plaintiff even in the absence of the Plaintiff's speech, your verdicts above should be NO as to each Defendant.

Regardless of your answer to this question, please proceed to **SECTION I: Question 2.**

SECTION I: Question 2

Section 1983 – Fourteenth Amendment Procedural Due Process

Do you find that Plaintiff Wayne T. Moulton has proven by a preponderance of the evidence each and every element of his Fourteenth Amendment procedural due process claim under 42 U.S.C. § 1983 against:

Defendant Gary W. Howard? Yes X No _____

Defendant Shawn J. Nalepa? Yes X No _____

Defendant Tioga County? Yes X No _____

Please note: If you answered YES for Defendant Gary W. Howard, you must answer YES for Defendant Tioga County.

Regardless of your answer to this question, please proceed to SECTION I: Question 3.

SECTION I: Question 3(a)

Defamation *per se*

Do you find that Plaintiff Wayne T. Moulton has proven by a preponderance of the evidence that the following Defendant(s) made a statement about Plaintiff to the Department of Criminal Justice Services in April or May 2021 that was defamatory:

Defendant Gary W. Howard? Yes X No _____

Defendant Shawn J. Nalepa? Yes X No _____

If you answered YES for at least one Defendant for Question 3(a), then proceed to Question 3(b). If you answered NO for all of the Defendants for each question in Section I, you may proceed to the end of this form and your deliberations are complete. The Foreperson should sign and date the final page of this Verdict Form and inform the Court Security Officer that a unanimous verdict has been reached.

SECTION I: Question 3(b)

Do you find that Plaintiff Wayne T. Moulton has proven by clear and convincing evidence that the following Defendant(s) made a statement to the Department of Criminal Justice Services in April or May 2021 that was false, and that the Defendant(s) knew it was false or acted in reckless disregard of the truth or falsity of the statement:

Defendant Gary W. Howard? Yes X No _____

Defendant Shawn J. Nalepa? Yes X No _____

If you answered YES for at least one Defendant to at least one of Questions 1, 2, or 3 (meaning 3(a) and 3(b)), then proceed to Section II. If you answered NO for all of the Defendants for each question in Section I, you may proceed to the end of this form and your deliberations are complete. The Foreperson should sign and date the final page of this Verdict Form and inform the Court Security Officer that a unanimous verdict has been reached.

Section II: Question 1

Compensatory or Nominal Damages

If one or more Defendants are found liable to Plaintiff in connection with his claim(s), the liable Defendants (if more than one) are jointly and severally liable for whatever compensatory damages you determine Plaintiff has suffered. Accordingly, you should calculate a single sum for each category of compensatory damages set forth below. (*Please Note*: If you find that Plaintiff's rights were violated but that Plaintiff has failed to prove by a preponderance of the evidence that he suffered any actual damages, then you must return an award of nominal damages in the sum of \$1.00. If you return an award for nominal damages in the sum of \$1.00, place that amount on ONLY one of the lines below and leave the other line BLANK.)

What amount of economic damages, if any, do you award Plaintiff Wayne T. Moulton?

\$ 1,500,000

What amount of non-economic damages, if any, do you award Plaintiff Wayne T. Moulton?

\$ 500,000

Proceed to **Section III** on the next page.

Section III: Question 1

Punitive Damages

Do you find that Plaintiff Wayne T. Moulton is entitled to punitive damages against:

Defendant Gary W. Howard? Yes X No _____

Defendant Shawn J. Nalepa? Yes X No _____

Proceed to the bottom of this page.

The Foreperson should sign and date this Verdict Sheet and inform the Court Security Officer that a unanimous verdict has been reached.

Foreperson: _____

REDACTED

Date: 6-23-2025